

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF FLORIDA

HENRY NARANJO

CASE NO.: 00-6022-CIV-LENARD
MAGISTRATE JUDGE TURNOFF

Plaintiff,

vs.

STEPHEN BYRON SMITH, and
PALMER JOHNSON, INC.

Defendants,

PALMER JOHNSON, INC.

Third Party Plaintiff,

vs.

TOM FEXAS YACHT DESIGN, INC.

Third-Party Defendant.

NIGHT FILED
OCT 12 2001
CLARENCE M. MCNAUL
CLERK, USDC FLA

**PLAINTIFF, HENRY NARANJO'S, MOTION IN LIMINE
EVIDENCE BY DR. MIRIAM FELIZ AND OTHER MEDICAL PROVIDERS**

COMES NOW the Plaintiff, HENRY NARANJO, by and through his undersigned counsel, and files this Motion in Limine seeking an Order to exclude any evidence by Dr. Miriam Feliz, or any other medical providers, of Plaintiff's alleged malingering and/or symptom magnification and/or exaggeration of injury. In support thereof, the Plaintiff states as follows:

1. HENRY NARANJO was severely injured on July 7, 1997, due to an explosion while he worked on the yacht motor "Souvenir", ex "Captivator."

[Handwritten signature]

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2. Henry Naranjo came under the care and treatment of Dr. Miriam Feliz a physiatrist. Dr. Feliz was deposed and stated that she believes that the Plaintiff was exaggerating his injuries and/or symptom magnifying. This opinion by Dr. Feliz is an improper comment on the truthfulness or veracity of Henry Naranjo.
3. It is impermissible for a witness to comment on the truthfulness or veracity of another. General Telephone Company and American Motorists Insurance Company v. Wallace, 417 So.2d 1022 (2DCA 1982). Such comments invade the province of the jury as the finder of fact. Davis v State, 527 So.2d 962 (5 DCA 1988). The jury is free to observe the Plaintiff and make its own determination as to the believability of the witness.
4. Additionally, Dr. Feliz's comments would only serve to confuse and mislead the jury and its probative value is substantially outweighed by its prejudicial effect.

WHEREFORE, the Plaintiff, HENRY NARANJO, respectfully requests this Honorable Court to enter an order excluding any evidence by Dr. Miriam Feliz, or any other medical provider, of Plaintiff's alleged malingering, symptom magnification, and/or exaggeration of the injury.

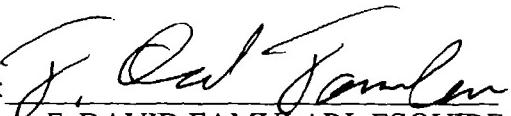
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CERTIFICATE OF SERVICE

IT IS HEREBY CERTIFIED that a true and correct copy of the foregoing PLAINTIFF'S MOTION IN LIMINE was mailed on this 11 day of October, 2001, to the parties listed on the attached List of Service.

Respectfully submitted,

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BY: 
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